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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,243	02/20/2004	Steven Armstrong	5645-03-A	1353

7590 12/28/2005
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EXAMINER

GALL, LLOYD A

ART UNIT PAPER NUMBER

3676

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,243

Applicant(s)

ARMSTRONG ET AL.

Examiner

Lloyd A. Gall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 42-48 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,9,10,25,26,46 and 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,11-24,27-29,42-45 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/02/2004.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Applicant's election with traverse of the species of figs. 1-22 in the reply filed on October 10, 2005 is acknowledged. The traversal is on the ground(s) that the two species represent two embodiments of the same invention, and that the basic structure and operation of the lock cylinder is the same in both species. This is not found persuasive because if allowable claim(s) are found, the dependent claims of both species would be reintroduced.

The requirement is still deemed proper and is therefore made FINAL.

Claims 6, 7, 9, 10, 25, 26, 46 and 47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 10, 2005. Applicants should note that claims 7, 26 and 47 likewise should be indicated as being "Withdrawn".

Applicant should note that the amendments to the specification and the amendment to the drawings do not comply with 37 CFR 1.121, since the new drawings should be labeled as "Replacement sheet", and the entire amended paragraphs must be submitted with respect to the amendments to the specification. Further, in the claim listing, claims 30-41 should be indicated by "Canceled" in parentheses.

The disclosure is objected to because of the following informalities: On page 1, paragraph 0001, SN "256,066" should be corrected, and its status should also be updated with the appropriate patent number. On page 1, paragraph 0002 should be

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deleted. On page 4, paragraph 0036, "27eb" should read --27e--. On page 7, line 5, "148" should read --115--. On page 7, line 6, numeral 154 is not shown in the drawings. On page 7, paragraph 0049, line 4, it appears that "102" should read --103--(see fig. 17C). On page 7, paragraph 0049, line 8, "recesses" should read --groove--. On page 8, paragraph 0050, line 9, "recesses" should read --groove--.

Appropriate correction is required.

The drawings are objected to because reference numeral 154 should be inserted in figure 16A to conform to the parent application. Also, figure "28AC" should be labeled as --28A--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claims 2, 3, 5, 8, 12, 17, 19, 20, 21, 23 and 44 are objected to because of the following informalities: In claim 2, "further comprising" a plurality of pins and racks is unclear, since these elements have already been claimed in claim 1. In claim 3, lines 2 and 3 and claim 8, line 2, "carrier" is unclear, since "carrier sub-assembly" had previously been used, and it is not clear in claim 3 if the racks are being claimed as a part of the carrier/carrier sub-assembly. In claim 5, line 1, "pin" is unclear, since plural pins have been claimed. In the last line of claim 12, there is no antecedent basis for "the cylinder housing". In claim 17, line 2, there is no antecedent basis for "the plug assembly". In claim 19, "further" comprising a carrier is unclear, since a carrier has been claimed in claim 18. Claim 20 should apparently depend from claim 18 to provide antecedent basis for "the carrier" and "the second position". In claim 21, lines 2-3, there is no antecedent basis for "the plug assembly". In claim 23, line 4, "unlocking" should read --unlocked-- to comply with line 2. In claim 44, line 4, there is no antecedent basis for "the plug body". Appropriate correction is required.

Claims 1-5, 8, 11-24, 27-29, 42-45 and 48 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,871,520. Although the conflicting claims are not identical, they are not patentably distinct from each other because they substantially claim the same subject matter.

Claims 1-5, 8, 11-24, 27-29, 42-45 and 48 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16

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of U.S. Patent No. 6,959,569. Although the conflicting claims are not identical, they are not patentably distinct from each other because they substantially claim the same subject matter.

Claims 1-5, 8, 11-24, 27-29, 42-45 and 48 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/958,081. Although the conflicting claims are not identical, they are not patentably distinct from each other because they substantially claim the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-5, 8, 11-24, 27-29, 42-45 and 48 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11-21 of copending Application No. 11/011,530. Although the conflicting claims are not identical, they are not patentably distinct from each other because they substantially claim the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-5, 8, 11-24, 27-29, 42-45 and 48 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 11/055,284. Although the conflicting claims are not identical, they are not patentably distinct from each other because they substantially claim the same subject matter.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill (262).

Hill teaches a rekeyable cylinder having a cylinder body 12, a plurality of racks 80, a plurality of pins 78 engageable with the racks, means 88 movable parallel to the

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longitudinal axis for changing the cylinder between a rekeying condition in fig. 3 and an operating condition when the racks engage the pins, the means 88 disengage the racks from the pins, the means 88 in fig. 3 prevent rotational movement of the racks and pins since the elements 90 prevent plug rotation.

Claims 15-17, 22-24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Loreti (495).

Loreti teaches a rekeyable lock having a cylinder body 1, a plurality of racks 16 and pins 20, means defined by the key C in figs. 18 and 19 movable parallel to the longitudinal axis for changing the cylinder between a rekeying condition in fig. 19 to disengage the racks and pins and an operating condition in fig. 22, the means C includes means 27 used in cooperating therewith in fig. 19 to prevent rotational movement of the racks, pins and the plug 9. With respect to claim 22, the racks are movable transversely to and rotationally about the longitudinal axis by insertion and rotation of a key, as well as parallel to the axis when the plug is installed in the cylinder body 1. The lock also includes a locking bar 25 movable to an unlocking position in moving between fig. 18 and fig. 19.

Claims 1-5, 8, 11, 13-20, 22-24, 27-29, 42-45 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Sperber et al (181).

Sperber teaches a rekeyable lock including a cylinder body 1, a plug 2b, a plurality of racks 3 and pins 4, or alternatively, a plurality of pins 3 and racks 4, a locking bar 5, a key 10, an unlocking tool 62 also insertable through the front face of the plug, a carrier sub-assembly 6, 9, 8, the carrier portion 6 movable parallel to the longitudinal axis of the

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plug, between a first position in fig. 2c and second position in fig. 2b allowing the racks and pins to be disengaged from one another, the racks and pins having interengaging gear teeth, the pins 4 having a hollow cup-shape at 41 for cooperation with a locking bar 5, the carrier portion 6 also including a spring catch 61 for engaging a recess of the plug 610 as seen in fig. 2b. With respect to claim 13, the racks 4 include a locking-bar receiving groove 41. With respect to claim 14, the carrier portion 9 includes slots defined by portions 8 in fig. 2d. With respect to claim 15, the tool 62 defines a longitudinally movable means for changing the lock between an operating condition in fig. 2c and a rekeying condition in fig. 2b, and with respect to claim 16, the means 62 cooperates with a means 5 in fig. 2c for preventing rotational movement of the racks, pins and plug assembly. Means 61 in fig. 2c bias the carrier 6 in the first position. With respect to claim 22, the racks and pins move parallel to and rotationally about the longitudinal axis when actuated by the key 10, and transversely to the longitudinal axis when their gear teeth disengage from one another. With respect to claim 23, the locking bar is in an unlocking position unlocked from the recesses 41 when the lock can be rekeyed. With respect to claim 29, in addition to being movable longitudinally, the carrier is also rotatable about the axis. With respect to claim 48, the first valid key 10 is rotatable with the plug body from a first position not shown in figs. 2a-2c into the fig. 2b position, and the key 10 being removable after the tool 62 is used.

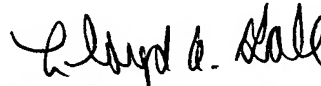
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 571-272-7056. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LG LG
December 21, 2005


Lloyd A. Gall
Primary Examiner